

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

Crl.MC.No. 1141 of 2007()

CC.51/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PATTAMBI
CRIME NO. 365/04 OF PATTAMBI POLICE STATION
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PETITIONER:

1. ANIL S., S/O.SOMASUNDARAN, AISWARYA,
PONNIYATH QUARTERS, EDAKKARA,
MALAPPURAM DISTRICT.
2. DIVYA, D/O.VIJAYAKUMAR, HARISREE,
LIBERTY STREET, PATTAMBI,
PALAKKAD DISTRICT.

BY ADV. SRIBABU S. NAIR
SRI.JIJO PAUL

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
THE SUB INSPECTOR OF POLICE, PATAMABI POLICE
STATION - THORUGH PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10/04/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 1141 of 2007

Dated this the 10th day of April, 2007

ORDER

The petitioners are the sole accused and the defacto complainant in a prosecution under Section 498A I.P.C. Cognizance has been taken on the basis of a final report submitted by the police. The proceedings were initiated with a private complaint filed by the second petitioner/wife alleging commission of the offences punishable under Section 498A I.P.C. against the first petitioner/husband. The prosecution is pending before the J.F.C.M. Court, Pattambi as C.C. No. 51 of 2005.

2. The petitioners have come before this Court with a joint request that the proceedings initiated by the second petitioner may be quashed invoking the powers under Section 482 Cr.P.C. The spouses have settled their disputes amicably and they have decided to file a joint application for divorce under Section 13(B) of the Hindu Marriage Act. Such application has already been filed and the same is pending before the Family Court, Palghat.

3. The averments in the petition show, the submissions of the learned counsel for the petitioners confirm and the affidavit filed by the second petitioner duly attested by counsel and the signature in which is vouched by the counsel for the petitioners, confirm beyond controversy that the parties have settled their disputes. I am satisfied that the composition and the settlement, if legally permissible, can be accepted and the prosecution can be quashed.

4. The offence under Section 498A I.P.C. is not compoundable. But the learned counsel for the petitioners relies on the decision in **B.S. Joshi v. State of Haryana** (AIR 2003 SC 1386). The said decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in such circumstances the provisions of Section 320 Cr.P.C. cannot be reckoned as a fetter on the sweeping powers of the Court under Section 482 Cr.P.C. to act in aid of justice. I am satisfied that the dictum therein is squarely applicable and can be invoked to prematurely terminate the proceedings against the first petitioner.

5. This Crl.M.C. is hence allowed. C.C.No. 51 of 2005 pending before the J.F.C.M. Court, Pattambi, against the first petitioner is hereby quashed.

6. Hand over copy of the order to the learned counsel for the petitioners.

(R. BASANT)
Judge

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